

REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on January 4, 2005, and the references cited therewith.

Claims 1, 7-11 and 17-20 are amended, Claims 21-23 are canceled, and Claims 24-25 are added; as a result, Claims 1-20, 24-25 are now pending in this application.

§112 Rejection of the Claims

Claims 7-10 and 17-20 were rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 7-10 and 17-20 were originally intended to depend from Claims 6 and 16, respectively. Due to typographical error, Claims 7-10 and 17-20 were written to instead depend from Claims 1 and 11 respectively. Claims 7-10 and 17-20 are herein amended to reflect their correct dependencies, which provides antecedent basis for "the high-carbon steel."

§102 Rejection of the Claims

Claims 1-5 and 11-15 were rejected under 35 USC §102(b) as being anticipated by Hodge (U.S. Patent No. 4,691,956). Claims 1 and Claims 11 have been amended, replacing the tailgate support element with a sidewall element. Hodge does not teach or suggest a tailgate assembly having a first leg of a torsion spring attached to a sidewall and a second leg of the torsion spring attached to a tailgate.

§103 Rejection of the Claims

Claims 6 and 16 were rejected under 35 USC §103(a) as being unpatentable over Hodge (U.S. Patent No. 4,691,956) in view of Zagaroff (U.S. Publication No. 2002/0167188). Claims 1 and Claims 11 have been amended, replacing the tailgate support element with a sidewall element. Neither Hodge nor Zagaroff, taken alone or together, teaches or suggests a tailgate assembly having a first leg of a torsion spring attached to a sidewall and a second leg of the torsion spring attached to a tailgate. Moreover, a significant benefit of the present invention that is not taught or suggested by Hodge or Zagaroff, is that the present invention can be installed without adding any additional parts other than the spring. Mechanisms taught in the prior art

IN THE DRAWINGS

The drawings were objected to as failing to comply with 37 CFR §1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 300 (Figure 3) and 400 (Figure 4). The Examiner has required corrected drawings or amendment to the specification.

Applicant has herein amended the specification in compliance with 37 CFR §1.121(b) to include, in the description, mention of the reference characters 300 (figure 3) and 400 (figure 4). Applicant contends that the amendment to the description does not add new matter to the specification.

require multiple parts to be added. These added parts add to the expense of installation and add to the chance of a part breaking during use.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (989-774-2900) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3019.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 9 day of February 2005.

Jane E. Sagers

Name

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Signature